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19 UNITED STATES DISTRICT COURT
20 CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION
21

22 PUMA SE, a German company; and
PUMA NORTH AMERICA, INC., a
23 Delaware corporation,

24 Plaintiffs,

25 v.

26 FOREVER 21, INC., a Delaware
corporation,,
27

28 Defendant.

Case No. 2:17-CV-02523-PSG-E

**NOTICE OF INTENTION TO FILE
OPPOSITION TO APPLICATION
FOR TEMPORARY RESTRAINING
ORDER**

**Date: To Be Determined
Time: To Be Determined
Courtroom: 6A
Honorable Philip S. Gutierrez**

1 Defendant Forever 21, Inc. (“Defendant” or “Forever 21”) intends to file, by
 2 3:00 p.m. on Monday, April 10, 2017, a written opposition to the Application for
 3 Temporary Restraining Order and Order to Show Cause Why a Preliminary
 4 Injunction Should Not Issue (“Application for TRO”) (Docket Entry 14).

5 Filing the opposition on Monday, April 10, 2017 will be timely because, as
 6 far as Forever 21 can determine, the Application for TRO has not been served, and
 7 for the reasons explained below.

8 Plaintiffs Puma SE and Puma North America, Inc. (collectively, “Plaintiffs”
 9 or “Puma”) filed the Application for TRO on April 5, 2017. Puma has not served
 10 the Application for TRO on Forever 21 or its registered agent for service of
 11 process.¹

12 It was not until after-hours on the following day, specifically at 7:26 p.m. on
 13 April 6, 2017, that Puma first provided the Application for TRO to outside counsel
 14 for Forever 21, by emailing it to Forever 21’s outside counsel. This does not
 15 constitute proper service and the notice that was provided was not timely.

16 This Court’s Standing Order Regarding Newly Assigned Cases (“Standing
 17 Order”) provides, in pertinent part:

18 **10. Ex Parte Applications.** ...The moving party shall
 19 serve the opposing party by facsimile transmission and
 20 shall notify the opposition that opposing papers must be
 21 filed not later than 3:00 p.m. on the first business day
 22 following such facsimile service. If counsel does not
 23 intend to oppose an ex parte application, he or she must
 24 inform the Courtroom Deputy Clerk at (213) 894-8899.

25
 26
 27 ¹Puma filed the Complaint on March 31, 2017 (Docket Entry 1). Puma filed a First
 28 Amended Complaint on April 4, 2017 (Docket Entry 13). No responsive pleading is
 yet due and none has been filed.

1 **11. TROs and Injunctions.** Parties seeking emergency
2 or provisional relief shall comply with Rule 65 and Local
3 Rule 65. The Court will not rule on any application for
4 such relief for at least twenty-four hours after the party
5 subject to the requested order has been served, unless
6 service is excused. Such party may file opposing or
7 responding papers in the interim.

8 At no time did Puma or its counsel ever inform Forever 21 or its counsel that
9 any opposing papers by Forever 21 must be filed on or before 3:00 p.m. on the next
10 business day, as required under this Court's Standing Order (Standing Order, ¶ 10).
11 See Exhibit A.

12 As shown in Exhibit A, counsel of record for Puma, Tamany Vinson Bentz,
13 stated in her email to outside counsel for Defendant Forever 21 dated April 6, 2017
14 at 7:26 p.m. that she "believe[s the Application for TRO], as well as the documents
15 filed last Friday, have already been served on your client's registered agent, as the
16 documents were sent out for service this morning."

17 Service has not been effected, and Puma has not filed a proof of service with
18 the Court showing service of the Application for TRO.

19 Based on the foregoing, Puma has not complied with this Court's Standing
20 Order to provide effective proper and timely service of the Application for TRO on
21 Forever 21, and therefore, the "clock" on Forever 21's opposition deadline has not
22 begun.

23 Notwithstanding the above, Forever 21 intends to file a written opposition to
24 Puma's Application for TRO by 3:00 p.m. on Monday, April 10, 2017.

1 Dated: April 7, 2017

2 SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

3
4 By /s/ Laura L. Chapman
5 LAURA L. CHAPMAN

6 Attorneys for Forever 21, Inc.
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